

Message Text

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TO AMEMBASSY KABUL PRIORITY

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E.O. 11652: N/A

TAGS: EIND, PFOR, AF

SUBJECT: PROTECTION OF U.S. BUSINESS INTERESTS: INDAMER
AFGHAN INDUSTRIES

REF: KABUL 3709

1. DEPUTY ASSISTANT SECRETARY DUBS CALLED IN AMBASSADOR
MALIKYAR ON MAY 21 TO EXPRESS USG CONCERN OVER TREATMENT
BEING ACCORDED INDAMER AFGHAN INDUSTRIES. DUBS MADE
FOLLOWING POINTS TO MALIKYAR AND PRESENTED HIM WITH
WRITTEN VERSION THEREOF:

-- INDAMER IS A WELL-ESTABLISHED FIRM WHICH HAS BEEN IN
BUSINESS IN AFGHANISTAN FOR ALMOST 20 YEARS. IT PROVIDES
EMPLOYMENT FOR OVER 100 PEOPLE AS WELL AS PROVIDING A
SOURCE OF REVENUE FOR GOVERNMENT OF AFGHANISTAN.

-- THE FIRM NOW FACES FINANCIAL RUIN AS A RESULT OF
APPARENTLY ARBITRARY ACTION BY OVER-ZEALOUS TAX COLLECTORS.

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SO FAR, INDAMER'S APPEALS HAVE GONE UNANSWERED. ITS CASE,

MOREOVER, IS STILL IN THE HANDS OF THE REVENUE DEPARTMENT OF THE MINISTRY OF FINANCE, THE ORGANIZATION WHICH MADE THE VERY RULING THAT THE COMPANY IS ATTEMPTING TO APPEAL.

-- ALTHOUGH OUR EMBASSY IN KABUL HAS REQUESTED FOREIGN MINISTRY INTERVENTION TO ELIMINATE COLLECTION ACTIVITY BY THE POLICE WHILE THE CASE IS UNDER APPEAL, POLICE HARASSMENT OF COMPANY OFFICIALS CONTINUES.

-- WE URGE THAT THE MERITS OF INDAMER'S POSITIONS, AS LAID OUT FULLY IN ITS APPEAL TO THE MINISTER OF FINANCE, BE GIVEN FULL CONSIDERATION UNDER THE APPROPRIATE TAX LAWS AND REGULATIONS OF AFGHANISTAN. IT WOULD APPEAR TO THE USG THAT THE RESOLUTION OF THE MATTER SHOULD NOT BE LEFT TO THE DEPARTMENT WHICH MADE THE INITIAL, DISPUTED RULING BUT SHOULD BE REFERRED TO A HIGH-LEVEL INTERAGENCY GROUP FOR AN IMPARTIAL ADJUDICATION.

-- THE USG DOES NOT TAKE A POSITION ON THE CORRECTNESS OF THE ADDITIONAL TAX ASSESSMENT LEVIED ON THE COMPANY BY THE MINISTRY OF FINANCE NOR DOES IT HAVE ANY INTENTION OF INTERPOSING ITSELF IN ANY WAY IN MATTERS OF AFGHAN TAX LAWS. HOWEVER, THE USG IS CONCERNED THAT INDAMER SEEMS TO HAVE NO RECOURSE TO AN APPEALS MECHANISM AND ABOUT THE BROADER RAMIFICATIONS OF THE INDAMER CASE: THE POTENTIAL EFFECTS ON THE ENVIRONMENT FOR PRIVATE INVESTMENT, PARTICULARLY FOREIGN PRIVATE INVESTMENT, IN AFGHANISTAN.

-- THE POLICIES OF THE AFGHAN GOVERNMENT TO ENCOURAGE FOREIGN PRIVATE INVESTMENT IN AFGHANISTAN WILL BE FURTHERED BY THE PRECEDENT CREATED BY CAREFUL HANDLING OF THE INDAMER CASE TO ASSURE THAT ALL TAX ASSESSMENTS ARE JUST, EQUITABLE, AND IMPARTIAL.

-- IN THE INTERIM, WHILE THE CASE IS UNDER APPEAL, WE WOULD URGE THE GOVERNMENT OF AFGHANISTAN TO HALT POLICE ATTEMPTS TO COLLECT THE ASSESSMENT.

2. MALIKYAR PROMISED TO COMMUNICATE THE ABOVE TO HIS LIMITED OFFICIAL USE

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GOVERNMENT WITH HIS PERSONAL RECOMMENDATION. HE SPOKE WARMLY OF HIS OWN LONG PERSONAL RELATIONSHIP WITH BALDWIN AND INDICATED HE FELT MINISTRY OFFICIALS MAY BE OUT OF STEP WITH GOVERNMENT INTENTIONS IN THE CASE.

3. DEPARTMENT WOULD APPRECIATE BEING KEPT INFORMED OF PROGRESS IN THIS MATTER. ROBINSON

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